



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
Cleveland Field Office

AJC Federal Building  
1240 East Ninth Street, Suite 3001  
Cleveland, OH 44199  
Intake Information Group: (800) 669-4000  
Intake Information Group TTY: (800) 669-6820  
Cleveland Status Line: (866) 408-8075  
Cleveland Direct Dial: (216) 522-7416  
TTY (216) 522-8441  
FAX (216) 522-7395  
Website: [www.eeoc.gov](http://www.eeoc.gov)

August 13, 2018

Frank Dundee ✓  
7707 Amberwood Trail  
Boardman, OH 44512

RE: Frank Dundee v University Hospitals  
Charge Number 533-2017-01275 and 22A-2018-02065

Dear Mr. Dundee:

This is to explain the evidence that the U.S. Equal Employment Opportunity Commission (EEOC) has gathered in your cases against University Hospitals (Respondent) and to inform you of the next steps you may take to pursue these matters further.

Based on the evidence gathered in these cases, we cannot establish a violation of Title I of the Americans with Disabilities Act of 1990, as amended. You alleged that you were issued a final written warning, forced to go to EAP counseling, and threatened with termination if you did not attend the counseling on the basis of a disability and in retaliation for engaging in protected activity. Evidence reveals that you were placed on a final written warning and mandated to attend EAP counseling for violating Respondent's professional behavior policy and its code of conduct. Subsequently, you were issued a letter advising you that you had until December 7, 2017 to schedule your EAP appointment. There is insufficient evidence revealing that these actions were taken against you because of a disability or in retaliation for engaging in protected activity. Therefore, it is unlikely that further investigation will lead to reasonable cause findings of discrimination.

Accordingly, we decline to take further action on the subject charges. The enclosed **Dismissals and Notice of Rights** represents a final determination by the U.S. Equal Employment Opportunity Commission (EEOC) and describes your right to pursue these matters further by filing a lawsuit within 90 days of receipt of this notice. If you fail to file a lawsuit within the statutory 90-day period, your right to sue in federal court will expire and cannot be restored by the EEOC.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Shelton".

Brian Shelton  
Investigator

EEOC Form 161 (11/16)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Frank Dundee** ✓  
**7707 Amberwood Trail**  
**Boardman, OH 44512**

From: **Cleveland Field Office**  
**EEOC, AJC Fed Bldg**  
**1240 E 9th St, Ste 3001**  
**Cleveland, OH 44199**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**533-2017-01275**

**Brian R. Shelton,**  
**Investigator**

**(216) 522-4843**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

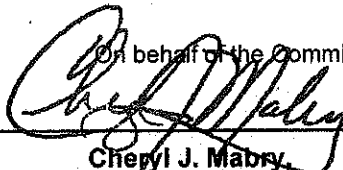
## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



**Cheryl J. Mabry,**  
**Director**

**AUG 13 2018**

(Date Mailed)

Enclosures(s)

cc: **Danialle Lynce**  
**Director, Human Resources**  
**UNIVERSITY HOSPITALS**  
**3605 Warrensville Center Rd.**  
**LL9115**  
**Shaker Hts., OH 44122**

EEOC Form 161 (11/16)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Frank Dundee**  
**7707 Amberwood Trail**  
**Boardman, OH 44512**

From: **Cleveland Field Office**  
**EEOC, AJC Fed Bldg**  
**1240 E 9th St, Ste 3001**  
**Cleveland, OH 44199**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**22A-2018-02065**

**Brian R. Shelton,**  
**Investigator**

**(216) 522-4843****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

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Other (briefly state)

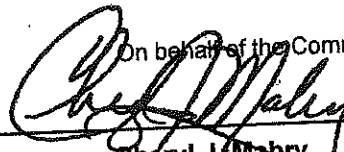
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On behalf of the Commission

  
**Cheryl J. Mabry,**  
**Director**

**AUG 13 2018**

(Date Mailed)

Enclosures(s)

cc:

**Danialle Lynce**  
**Director, Human Resources**  
**UNIVERSITY HOSPITALS**  
**3605 Warrensville Center Rd.**  
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**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Cleveland Field Office**

AJC Federal Building  
1240 East Ninth Street, Suite 3001  
Cleveland, OH 44199  
(216) 522-2001 (Main Number)  
1-800-669-4000 (General Inquiries)  
FAX (216) 522-7395 \* TTY (216) 522-8441

EEOC Charge Nos. 533-2017-01275  
and 22A-2018-02065

Frank Dundee  
7707 Amberwood Trail  
Boardman, OH 44512

Charging Party

University Hospitals  
13207 Ravenna Rd.  
Chardon, OH 44024

Respondent

**NOTICE OF INTENT TO RESCIND**

Pursuant to the authority vested in me by 29 CFR Sec. 1601.19, I have decided to rescind the no reasonable cause decision rendered in this case on July 20, 2018.

The charging party's right to sue is hereby vacated, unless the charging party has filed suit, the 90 day period has expired, or that charging party received a notice of right to sue pursuant to 29 CFR section 1601.28 (a) (1) or (2).

Please note that this case has been sent back to the Enforcement Unit for further investigation. Should you have any questions, please contact Brian Shelton, Investigator at 216/522-4843.

On Behalf of the Commission:

*Oct, 29, 2018*  
Date

*for Cheryl Mabry*  
Cheryl Mabry, Director  
Cleveland Field Office

cc: Danialle Lynce  
Director Human Resources  
University Hospitals  
3605 Warrensville Center Rd.  
LL9115  
Shaker Hts., OH 44122

EEOC Form 161 (11/16)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Frank Dundee**  
**7707 Amberwood Trail**  
**Boardman, OH 44512**

From: **Cleveland Field Office**  
**EEOC, AJC Fed Bldg**  
**1240 E 9th St, Ste 3001**  
**Cleveland, OH 44199**



On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

22A-2018-02065

**Brian R. Shelton,**  
**Investigator**

(216) 522-4843

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Other (briefly state)

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Enclosures(s)

On behalf of the Commission

*Cheryl J. Mabry*  
 Cheryl J. Mabry,  
 Director

*March 6, 2019*  
 (Date Mailed)

cc: **Danialle Lynce**  
**Director, Human Resources**  
**UNIVERSITY HOSPITAL**  
**3605 Warrensville Center Rd.**  
**LL9115**  
**Shaker Hts., OH 44122**

EEOC Form 161 (11/16)

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## DISMISSAL AND NOTICE OF RIGHTS

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From: **Cleveland Field Office**  
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On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**533-2017-01275**

**Brian R. Shelton,**  
**Investigator**

**(216) 522-4843**

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On behalf of the Commission

*Cheryl J. Mabry*  
**Cheryl J. Mabry,**  
**Director**

*March 6, 2019*  
 (Date Mailed)

Enclosures(s)

cc: **Danialle Lynce**  
**Director, Human Resources**  
**UNIVERSITY HOSPITAL**  
**3605 Warrensville Center Rd.**  
**LL9115**  
**Shaker Hts., OH 44122**





Frank Dundee &lt;fdundee@gmail.com&gt;

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**EEOC charges 533-2017-01275 and 22A-2018-02065**

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Frank Dundee &lt;fdundee@gmail.com&gt;

Fri, Aug 17, 2018 at 12:01 AM

To: BRIAN SHELTON &lt;brian.shelton@eeoc.gov&gt;

Cc: CONNIE DAVIS &lt;connie.davis@eeoc.gov&gt;, Cheryl.Mabry@eeoc.gov

Hi Mr. Shelton

I intend to pursue my right-to-sue, pro se, in Federal Court over the next 90 days. Is it possible that you could send me copies of all of the materials that I have provided to your office regarding the above charges, as well as any materials provided to you by University Hospitals and their representatives? Thank you for your consideration.

Frank Dundee  
7707 Amberwood Trail  
Boardman, Ohio 44512



Frank Dundee &lt;fdundee@gmail.com&gt;

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**Frank Dundee/University Hospitals 2 intake documents**

Frank Dundee <fdundee@gmail.com>  
To: Cheryl.Mabry@eeoc.gov

Sun, Aug 19, 2018 at 10:52 PM

Hi Ms. Mabry

I received the final determination from investigator Brian Shelton on charge #533-2017-01275. His determination, which he came to without ever speaking or communicating with me in any way, bears no relation at all to the TWO charges that I submitted in August of 2017. He speaks of my having a "disability" in his determination, when there is NO mention of that in EITHER of the TWO charges I submitted last August.

The two intakes forms, below, from a previous email that I sent to you expressing my concern that your office was on the wrong track with the issues from the very beginning, clearly state the violations under EEOC rules:

- **The intake form dated 8/19/2017 charges that UH retaliated against me for filing a sexual harassment complaint against my supervisor, which is a protected activity.**
- **The intake form dated 8/23/2017 charges that UH violated ADA public policy regarding employer unlawful, mandated medical examinations.**

Please note: there are boxes on each form asking if I have or have had a disability. NONE ARE CHECKED.

Where did Mr. Shelton come up with his claim that I had or have a disability? Charge #533-2017-01275 was cobbled together by a person or persons in your office and not by me. The reason for such action was never clearly explained nor was it necessary. My charges are clearly elucidated on the intake forms.. I was left to wonder, all these months, since I filed TWO specific charges that stand on their own, why there was only one charge number? I now understand that #533-2017-01275 refers to the charge that YOUR OFFICE cobbled together. That bastardized charge is at best mishegoss and at worse malfeasance.

I am asking that you intervene to make this right by giving each of my charges on the intake form below a number and starting the process again. My charges were timely filed and valid. I understood from the beginning that filing charges of discrimination went through the EEOC first before the charging party could get the right to sue in Federal Court. I have two distinct charges, not one, to take to Federal Court. Charge #533-2017-01275 is not my charge, it is your office's. I thank you for your consideration.

Frank Dundee  
[Quoted text hidden]

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**2 attachments**

 **eeoc intake form ADA complaint revised.pdf**  
206K

 **eeoc intake form retaliation charge revised.pdf**  
198K





Frank Dundee &lt;fdundee@gmail.com&gt;

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**Frank Dundee/University Hospitals 2 intake documents**

**CHERYL MABRY** <CHERYL.MABRY@eeoc.gov>  
To: Frank Dundee <fdundee@gmail.com>

Mon, Aug 20, 2018 at 9:01 AM

Thank you for contacting me. I will need to review your cases closely and get back to you either directly or through a member of management. We will need at least a week. Please stand by.

Get [Outlook for iOS](#)

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**From:** Frank Dundee <fdundee@gmail.com>  
**Sent:** Sunday, August 19, 2018 10:52:59 PM  
**To:** CHERYL MABRY  
**Subject:** Fwd: Frank Dundee/University Hospitals 2 intake documents

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**Frank Dundee/University Hospitals 2 intake documents**

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**Frank Dundee** <fdundee@gmail.com>

Sun, Sep 16, 2018 at 10:22 PM

To: CHERYL MABRY &lt;CHERYL.MABRY@eeoc.gov&gt;

Hi Ms. Mabry

I'm just checking in on the progress of your review. Thank you.

Frank Dundee

On Mon, Aug 20, 2018 at 9:01 AM, CHERYL MABRY &lt;CHERYL.MABRY@eeoc.gov&gt; wrote:

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**Frank Dundee/University Hospitals 2 intake documents**

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Frank Dundee &lt;fdundee@gmail.com&gt;

Mon, Sep 17, 2018 at 11:14 PM

To: CHERYL MABRY &lt;CHERYL.MABRY@eeoc.gov&gt;

Hi Ms. Mabry

I hoped to hear back from you today. My right-to-sue is on the clock, so there is an immediacy to my situation. Not hearing from you has me concerned only because of what I've been through this past year with the Cleveland Office, generally and Mr. Shelton, specifically. It has been a year since I filed my charges and I am no closer to any resolution. The only thing that I can see is a battle on two fronts with the Cleveland Office and UH. I want you to be the honest broker I need in this situation. Mr. Shelton's actions in reaching his final determination were the definition of malfeasance. His final determination has prejudiced any lawsuit that I file against UH going forward. That is why I need you to remedy his malfeasance.

As an aside, the woman who came forward with accusations of sexual assault against Judge Kavanaugh may get a fairer hearing than Anita Hill received against Clarence Thomas, simply because of the #MeToo movement. The woman mentioned that Kavanaugh's attack changed her life and traumatized her. Well, my charge against UH was **retaliation** against my claim of sexual harassment, with corroboration, against my supervisor, which Mr. Shelton completely ignored, changed my life and traumatized me. **So in this new environment, an organization that's supposed to protect a person's right to file a claim of sexual harassment, abdicated their responsibility. I hope that isn't lost on you. It isn't lost on me.**

I hope to hear back soon. Thank you for your consideration.

Frank Dundee

On Mon, Aug 20, 2018 at 9:01 AM, CHERYL MABRY &lt;CHERYL.MABRY@eeoc.gov&gt; wrote:

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**Frank Dundee/University Hospitals 2 intake documents**

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**CHERYL MABRY** <CHERYL.MABRY@eeoc.gov>

Thu, Sep 20, 2018 at 9:11 AM

To: Frank Dundee &lt;fdundee@gmail.com&gt;

Cc: CONNIE DAVIS &lt;CONNIE.DAVIS@eeoc.gov&gt;

Hi Mr. Dundee

Having been away on business the first 2 weeks of September, I'm just back in the office for only 4 days this week and out again on business until October 10<sup>th</sup>. I have your case files and will review them upon my return directly. If I decide to re-open the cases and rescind the dismissal notice, I will have to do it before the 90 days expire. The notices are dated August 13<sup>th</sup>, so there is time. However, if I do not re-open the cases, the 90-day clock continues to tick and there is nothing we can do to stop that. Therefore, if you want to be on the safe side, you may file in court even while you wait on us just to preserve that in the event the cases are not re-opened or you can continue to wait for me to review the cases and make a decision. I'd like to review the cases myself, though.

Today is my last day before my business travel starts again.

I do appreciate your patience. This end of fiscal year travel schedule is a bear.

Regards,

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion**

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Frank Dundee &lt;fdundee@gmail.com&gt;

Wed, Oct 17, 2018 at 9:13 AM

To: CHERYL MABRY &lt;Cheryl.Mabry@eeoc.gov&gt;

Hi Ms. Mabry

Checking in with a suggestion. I'm sure you've been busy with more important issues. Maybe you've had a chance to review my charges or maybe not. We are less than 30 days out on the time limit and I have a suggestion that may work.

Mr. Shelton's final determination that mentions a "disability" where none exists anywhere in the charges, is strong evidence that he mishandled the investigation. I have no idea what is involved if you decide to reopen the investigation. But is it possible that you could suggest EEOC mediation as a remedy for the situation to University Hospitals, if you do reopen the investigation? **It buys time and may have a good chance of reaching a settlement before going to law.**

I am agreeable to EEOC mediation, as I have participated in quite a few hearings before the FMCS in my past life as a union representative; so I am familiar with the process. It's just a suggestion that may help to clear the deck for both of us. Thank you for your consideration.

Frank Dundee 330-398-8274





Frank Dundee <fdundee@gmail.com>

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## EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion

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CHERYL MABRY <CHERYL.MABRY@eeoc.gov>

Wed, Oct 17, 2018 at 12:39 PM

To: Frank Dundee <fdundee@gmail.com>

Hi Mr. Dundee

Please stand by. I am reviewing the case now.

Get [Outlook for iOS](#)

---

**From:** Frank Dundee <fdundee@gmail.com>

**Sent:** Wednesday, October 17, 2018 9:13:12 AM

**To:** CHERYL MABRY

**Subject:** EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion**

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**CHERYL MABRY** <CHERYL.MABRY@eeoc.gov>

Wed, Oct 17, 2018 at 1:27 PM

To: Frank Dundee &lt;fdundee@gmail.com&gt;

Also, you sent me a large uncompressed file (larger than 1GB) and my IT specialist says it is a file we don't recognize and it is too big for us to open. Is there a way you can convert this to a mp3 (compressed audio) so that we can download it and make it part of the investigative file?

**From:** Frank Dundee [mailto:fdundee@gmail.com]**Sent:** Wednesday, October 17, 2018 9:13 AM**To:** CHERYL MABRY <CHERYL.MABRY@EEOC.GOV>**Subject:** EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion

Hi Ms. Mabry

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion**

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**CHERYL MABRY** <CHERYL.MABRY@eeoc.gov>

Wed, Oct 17, 2018 at 6:26 PM

To: Frank Dundee &lt;fdundee@gmail.com&gt;

Cc: CONNIE DAVIS &lt;CONNIE.DAVIS@eeoc.gov&gt;

Hi Mr. Dundee

I've taken a look at the 2 cases referenced above and have decided to rescind the dismissals and re-open the cases. Working with Connie Davis, the enforcement supervisor, there are some specific instructions for next steps we have for the investigator. We will both keep abreast of all steps and ensure the evidence and the communications to you are clear. You will receive a letter informing you that the dismissal has been rescinded.

Please also note that at this time, we are past the mediation stage. However, we can approach the employer with a settlement offer. Just let me and Connie know what your thoughts are as far as a settlement demand goes and we will consider. Connie is copied on this email. I won't make any guarantees about settlement, though. I'm sure you understand how that goes with such things.

But, for now, please stand by. You will be contacted if and when we need additional information from you.

Please remember to send us that audio file in mp3 format if you can. Otherwise, we don't have the capability of retrieving it.

Thanks so much for your patience.

Regards

**From:** Frank Dundee [mailto:fdundee@gmail.com]

**Sent:** Wednesday, October 17, 2018 9:13 AM

**To:** CHERYL MABRY <CHERYL.MABRY@EEOC.GOV>

**Subject:** EEOC charges 533-2017-01275 and 22A-2018-02065; a suggestion

Hi Ms. Mabry

[Quoted text hidden]



Frank Dundee &lt;fdundee@gmail.com&gt;

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**Dundee v. University Hospital; 533-2017-01275 and 22A-2018-02065**

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**CONNIE DAVIS** <CONNIE.DAVIS@eeoc.gov>

Wed, Mar 6, 2019 at 3:04 PM

To: Frank Dundee &lt;fdundee@gmail.com&gt;

Good Afternoon Mr. Dundee,

Please find attached copies of the Dismissal and Notice of Rights for both charges pertaining to the above-subject matter. I will mail the originals to you via regular mail today.

Please keep in mind the 90-day time frame to file suit in Federal court. In addition, you can request copies of both case files under the Freedom of Information Act (FOIA). All FOIA requests are handled by the EEOC Philadelphia District Office. Your FOIA request can be sent to [foia@eeoc.gov](mailto:foia@eeoc.gov). Their mailing address is: EEOC, Philadelphia District Office, ATTN: FOIA Unit, 801 [Market Street](#), 13<sup>th</sup> Floor, Philadelphia, PA 19107.

We regret there is nothing further the EEOC can do to assist you in this particular matter. Sincerely,

Connie Davis, Enforcement Supervisor

Cleveland Field Office

[connie.davis@eeoc.gov](mailto:connie.davis@eeoc.gov)

216.522.7679

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**2 attachments****DismissalNoticeofRights533201701275(FDundee).pdf**

136K

**DismissalNoticeofRights22A201802065(FDundee).pdf**

137K